IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 16394 of 2006 (O&M)

DATE OF DECISION: 15.02.2007.

Union of India ....Petitioner

Versus

Maha Singh and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Ms. Daya Chaudhary, Asstt.Solicitor General of India, for the petitioners.

J.S. Khehar, J. (oral)

Respondent No.1 Maha Singh was not paid his retiral benefits after his retirement, on attaining the age of superannuation on 31.3.2003. It is, therefore, that he had to approach the Central Administrative Tribunal, Chandigarh Bench, Chandigarh, by filing Original Application No.150-HR of 2004. Death-cum-retirement gratuity was then paid to him on 16.6.2004, and pension and commuted value of pension were released to him on 31.5.2004. The Administrative Tribunal having arrived at the conclusion, that the aforesaid retiral benefits should have been paid to the respondent Maha Singh within six months of his retirement, directed the authorities to pay him interest on delayed payment of retiral benefits, after the expiry of the period of six

months. It is, therefore, that the Tribunal, while disposing of Original Application No.150-HR of 2004, required the authorities (i.e. the petitioners herein) to pay interest at the existing bank rates to the respondent Maha Singh with effect from 1.10.2003.

Dissatisfied with the order passed by the Administrative Tribunal, the petitioners have approached this Court. The solitary grievance of the petitioners with the impugned order, was noticed in our order dated 13.11.2006. It is reiterated today, that the solitary grievance of the petitioners, as has been raised in the instant writ petition, is limited to the issue of payment of interest to the respondent Maha Singh, on the delayed payment of retiral benefits, after the expiry of six months from the date of his retirement.

We were, prima facie, of the view, that the instant writ petition had been filed as a misuse of the jurisdiction vested in this Court under Article 226 of the Constitution of India. We, therefore, required those responsible for taking a decision to file the instant writ petition, to be identified. The following officers were identified, as is apparent from our previous order dated 13.11.2006:-

(i) Mr. S.C. Bal, Under Secretary,
Ministry of Finance,
New Delhi.

(ii) Mr. Ashok Kumar, Under Secretary,
Ministry of Urban Development,
New Delhi.

(iii) Mr. Bhupal Singh, Desk Officer,
Department of Pension and Pensioners Welfare,
New Delhi.

Consequent upon the direction issued by this Court on 13.11.2006, the concerned officers have filed affidavits, tendering an explanation, so as to

highlight, the basis for filing the instant writ petition. Learned counsel for the petitioners is agreed, that the basis for filing the instant writ petition has been depicted in paragraph 8 of the affidavits filed by the concerned officers. Since paragraph 8, in all the affidavits, is identical, the same is being extracted hereunder:-

> "8. It is further submitted that there has never been any attempt on the part of the official concerned to harass the respondent in any way. The Writ Petition filed in this case is not for a trivial issue of payment of interest as of a policy matter for the Govt. regarding payment of interest on retiral benefits which is not provided in the rules. Based on the CCS A(Pension) Rules (relevant extracts enclosed) and instructions contained in the Deptt. of Personnel & Training's O.M.No.28027/9/99-Estt(A) dated 1/5/2000 (copy enclosed) it was opined that the matter may be taken up with the nodal Ministry i.e. Ministry of Personal, Public Grievances and Pensions (Deptt. of Pension & Pensioner's Welfare) for their advice/decision and also with the Deptt. of Legal Affairs for advice regarding implementation of Hon'ble CAT's order/filing appeal against the order. The opinion so expressed was duly supported by my superiors in the administrative hierarchy. The conclusion that the purpose behind filing the writ petition was the harassment of respondent No.1 with the motive of delaying payment is not fair to the petitioner."

We have perused the aforesaid affidavits. It is, however, not

possible for us to accept, that the reasons recorded therein can be accepted as a sufficient justification at the hands of the petitioners, to file the instant writ petition. The aforesaid averments tend to suggest that if statutory rules or instructions do not provide for payment of interest the same cannot be levied by a Court. In other words, the aforesaid contention would lead to the conclusion, that if interest is not provided for it cannot be imposed irrespective of the delay in release of a payment. This assertion suggests that even if these retiral benefits had been delayed for ten years the Tribunal ought not have awarded interest. This stance besides being absolutely absurd and unreasonable, is also in complete disregard to award of interest in situations like the one in hand in "n" number of cases by this Court as well as the Apex Court. Our conclusion, that there was no justification in filing the instant writ petition stands fully affirmed, this must lead to a natural inference, namely, that the filing of the instant writ petition on the advice of the officers/officials referred to above, was without any justification whatsoever. So as to ensure that the tendency, at the hands of the Government, to challenge every order on the judicial side, is curtailed, we consider it just and appropriate, to impose costs on all these three officers/officials. Accordingly, costs quantified at Rs.2,000/- each, are imposed on these officers. The aforesaid costs shall be deposited with the Registrar of this Court within one month from today. So as to protect poor citizens (as the respondent Maha Singh herein, who was holding the post of Upper Division Clerk, at the time of his retirement, and had to seek a judicial remedy, to get his retiral benefits), whose claims have to be considered by officers/officials of the kind identified hereinabove, we are also of the view, that a

conscious decision should be taken at the hands of the Government, to transfer these officers, to seats, wherein they are not called upon to take decisions of this nature in future.

The instant order imposing costs and other directions, has been passed, so as to create an awareness, with those who occupy positions of authority, wherein they are called upon to deal with rights of poor citizens, that they should act responsibly. We are of the view, that many a times, orders are challenged on the judicial side, without proper application of mind, which is one of the reasons, why arrears in Courts are mounting, as unnecessary and frivolous litigation is encouraged.

In so far as the merits of the case are concerned, we are satisfied, that the Administrative Tribunal was fully justified in awarding interest to the respondent Maha Singh, on account of delayed payment of retiral benefits, specially because in its order the Tribunal required that interest would commence to run after the expiry of six months from the date of retirement of the respondent Maha Singh. The interest awarded is also most reasonable i.e. at the existing Bank rates approved by the Government.

Learned counsel for the petitioners desires us to record in our order, that the payment of interest in terms of the order passed by the Tribunal dated 23.8.2005, has already been released to the respondent Maha Singh. In deference to her desire we have noticed the aforesaid fact. In our view, the point at issue has been missed by the learned counsel for the petitioners. Payment to the respondent is a trivial issue concerning the respondent alone. We have made an effort to address a larger issue, namely, proper application of mind before seeking recourse

to a judicial remedy.

Dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

February 15, 2007.
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